

**PT 02-30**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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**HAROLD STRICKFADEN**

<b>Applicant</b>	)	<b>A.H. Docket #</b>	<b>01-PT-0058</b>
<b>v.</b>	)	<b>Docket #</b>	<b>01-90-13</b>
	)		
	)	<b>P. I. #</b>	<b>05-05-17-200-005</b>
<b>THE DEPARTMENT OF REVENUE</b>	)		<b>05-05-17-200-006</b>
<b>OF THE STATE OF ILLINOIS</b>	)		

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. Michael J. Tibbs of Miller, Hall, and Triggs for Harold Strickfaden; Mr. George Logan, Special Assistant Attorney General for the Illinois Department of Revenue.

**Synopsis:**

The hearing in this matter was held on February 26, 2002, to determine whether a portion of Tazewell County Parcel Index Nos. 05-05-17-200-005 and 05-05-17-200-006 qualified for exemption during the 2001 assessment year.

Harold Strickfaden (hereinafter referred to as "Applicant") testified as owner of the properties at issue and member of the Zion Evangelical United Methodist Church. Wayne Kaiser, member and chairman of the Tabernacle Committee for the Zion Evangelical United Methodist Church also testified in behalf of applicant.

The issues in this matter include: first, whether applicant was the owner of the properties during the 2001 assessment year; secondly, whether applicant is a religious organization; and lastly, whether these properties were used by applicant for exempt purposes during the 2001 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the exemptions be granted except for the

portion of the properties used for parking. In support thereof, I make the following findings and conclusions in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 **ILCS** 100/10-50).

**FINDINGS OF FACT:**

1. The jurisdiction and position of the Department that a part of Tazewell County Parcel Index Nos. 05-05-17-200-005 and 05-05-17-200-006 did not qualify for a property tax exemption for the 2001 assessment year were established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 9)

2. On June 25, 2001, the Department received the requests for exemption of Tazewell County Parcel Index Nos. 05-05-17-200-005 and 05-05-17-200-006. On August 30, 2001, the Department denied in part the requested exemptions finding that the tabernacle, dining hall, restroom facility and the land on which they stand are exempt; the remainder of the property is taxable as it is not in exempt ownership and not in exempt use. On September 11, 2001, applicant timely protested the denial and requested a hearing. The hearing held on February 26, 2002, was pursuant to that request. (Dept. Ex. No. 1)

3. Applicant acquired the subject parcels by quitclaim deeds dated August 21, 1971, and December 19, 1994. The property has been in applicant's family since the 1800's. Applicant's great grandfather was one of the founding members of the predecessor church to the Zion Evangelical United Methodist Church. (Dept. Ex. No. 1; Tr. p. 23)

4. The property consists of ten and one-fourth acres and contains a tabernacle/house of worship, a dining hall, and restroom facilities. (Dept. Ex. No. 1; Applicant's Ex. No. 1)

5. On June 25, 1921, George Strickfaden, applicant's great uncle, executed a lease with the trustees of the Evangelical Zion Society n/k/a the Zion Evangelical United Methodist Church for the real property at issue. The lease memorialized the prior use of the property for religious purposes by the society. The lease is for one dollar for the use and benefit of the church for the erection and maintenance of a

tabernacle, related buildings, and parking on the subject property. The tabernacle was erected for the purpose of religious worship and education conducted annually on the property under the name of camp meetings and tent-meetings. The lease terminates if the church ceases to use the tabernacle and property for its intended uses. (Dept. Ex. No. 1; Tr. p. 29)

6. The property has been used for camp meetings since 1852. Visiting ministers officiate at the meetings. The meetings were held outdoors until 1889 when a 50 X 80 foot tent was placed on the property. A storm in the summer of 1920 destroyed the tent and the tabernacle was erected. The tabernacle, located in the center of the 10 acres, has twelve to fourteen sides and looks like a giant tent. The doors and windows on each side open adding to the quiet, serene, open-air setting. (Dept. Ex. No. 1; Tr. pp. 24-34)

7. Applicant receives no rent from the church for the use of the property. Applicant enters the property only as a member of the church because the entire property is leased to the church. The church has been in exclusive possession of the property since before 1921. (Dept. Ex. No. 1; Tr. pp. 14, 30)

8. The Tabernacle Committee of the church arranges activities on the property. (Tr. pp. 11-12)

9. The property is used for Bible schools, religious worship services, meetings, and recreational activities. Other churches also use the property for revival meetings, camp meetings, and outings. The visiting churches pay no fees for the use of the property. (Tr. pp. 12-16, 35)

10. The Zion Evangelical United Methodist Church maintains the buildings and property at issue. The church uses the entire front two-thirds of the property for parking and the buildings for worship services and recreational activities associated with the services. The back one-third is heavily wooded with a ravine. The surrounding acreage adds to the serenity of the location as a highway is within one-quarter mile of the property. Children of the congregation also use the back acreage for recreational activities following church services. (Tr. pp. 15-27, 34-35)

## **CONCLUSIONS OF LAW:**

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. Coles-Cumberland Professional Development Corp. v. Department of Revenue of State of Ill., 284 Ill.App.3d 351 (4<sup>th</sup> Dist. 1996). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statute exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, . . .

Also at issue are the parking areas. The Illinois statutes at 35 **ILCS** 200/15-125 exempt certain property from taxation, in part as follows:

§ 15-125. Parking areas. Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any

school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

Applicant received an exemption for the tabernacle, dining room, and restroom facilities and the land on which they stand. Applicant is unsure what portion of the property is found to be exempt and what portion is taxable. (Dept. Ex. No. 1, pp. 4-4b) The applicant asserts that the entire property is leased to the church and is used for religious purposes.

The property is leased to the church for a one time payment of \$1.00. Leasing alone does not divest property of its exempt character as the phrase in the applicable statute 'with a view to profit' modifies both the word 'leased' and the word 'used'. The use to which the property is devoted is decisive. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Applicant receives no compensation for the lease and enters the property as a member of the church. The lease for the subject real property is in effect until the church no longer uses the property for religious purposes. The church maintains the land and all buildings. Applicant has established that it receives no income for the use of the property. The church uses the property for religious camp meetings, parking, and recreational purposes. Other churches also use the property, at no cost, for Bible studies and religious activities.

In The People v. Deutsche Gemeinde, 249 Ill. 132 (1911) the Court stated:

Unless facts are stated from which it can be seen that the use is religious or a school use in the sense in which the term is used in the constitution the application should be denied. The words used in the constitution are to be taken in their ordinary acceptance and under the rule of strict construction, which excludes all purposes not within the contemplation of the framers of that instrument. While religion, in its broadest sense, includes all forms and phases of belief in existence of superior beings capable of exercising power over the human race, yet in the common understanding and in its application to the people of this State it means the formal recognition of God as members of societies and associations. As applied to the uses of property, a religious purpose means a use of such property by a religious society or body of persons as a stated place for public worship, Sunday schools and religious instruction. *Id.* at 136-137

In Lutheran Church of Good Shepherd of Bourbonnais v. Department of Revenue, 316 Ill.App.3d 828, (3<sup>rd</sup> Dist. 2000) the appellate court held that property used as additional church yard and for recreational

purposes qualified for a religious property tax exemption. Applicant has established that the church uses areas of the subject property for religious worship services, and recreational activities related to the worship services, which are all religious uses.

For the parking lot areas however, 35 **ILCS** 200/15-125, requires that an exempt organization must own the property and use it as part of a use for which an exemption is provided. Faith Christian Fellowship of Chicago Illinois v. Department of Revenue, 226 Ill.App.3d 322 (1<sup>st</sup> Dist. 1992), Mt. Calvary Baptist Church v. Zehnder, 302 Ill.App.3d 661 (1<sup>st</sup> Dist. 1998). Applicant is an individual, not an exempt organization, and therefore the parking areas at issue cannot qualify for exemption.

It is therefore recommended that Tazewell County Parcel Index Nos. 05-05-17-200-005 and 05-05-17-200-006 be exempt from property taxation for the 2001 assessment year, except for those areas used for parking.

Respectfully Submitted,

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Barbara S. Rowe  
Administrative Law Judge

Date: April 26, 2002